COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

# FISCAL NOTE

L.R. No.: 2907-02
Bill No.: HB 1677
Subject: Children and Minors; Health Care Professionals; Medical Procedures and Personnel.
Type: Original
Date: March 4, 2002

## FISCAL SUMMARY

| ESTIMATED NET EFFECT ON STATE FUNDS | | | |
|---|---|---|---|
| FUND AFFECTED | FY 2003 | FY 2004 | FY 2005 |
| General Revenue | ($1,314,150 to $1,579,030) | ($1,391,607 to $1,656,487) | ($1,426,941 to $1,691,821) |
| | | | |
| **Total Estimated Net Effect on All State Funds** | **($1,314,150 to $1,759,030)*** | **($1,391,607 to $1,656,487)*** | **($1,426,941 to $1,691,821)*** |

*** Does not include Unknown data analysis costs.**

| ESTIMATED NET EFFECT ON FEDERAL FUNDS | | | |
|---|---|---|---|
| FUND AFFECTED | FY 2003 | FY 2004 | FY 2005 |
| | | | |
| | | | |
| **Total Estimated Net Effect on All Federal Funds*** | **$0** | **$0** | **$0** |

*** Revenues and expenditures could exceed $400,000 annually and net to $0.**

| ESTIMATED NET EFFECT ON LOCAL FUNDS | | | |
|---|---|---|---|
| FUND AFFECTED | FY 2003 | FY 2004 | FY 2005 |
| **Local Government** | **($90,000,000 to Unknown)** | **($90,000,000 to Unknown)** | **($90,000,000 to Unknown)** |

Numbers within parentheses: ( ) indicate costs or losses.
This fiscal note contains 11 pages.

## FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of Secretary of State** assume the proposed legislation will not fiscally impact their organization.

Officials from the **Department of Health and Senior Services (DOH)** stated this legislation would not be expected to significantly impact the operations of the DOH. If the proposal were to substantially impact the DOH programs, then the DOH would request funding through the legislative process.

Officials from the **Department of Mental Health (DMH)** provided the following assumptions related to the proposed legislation:

It is assumed from this bill that it is the licensed health care professional (which would include M.D.s, D.O.s, D.D.S.s, and Nurse Practitioners), who is responsible for sending a copy of the prescription and medication listing to the Department of Mental Health as required by the bill. For purposes of this note it is assumed that licensed health care professionals (primarily doctors) do not enter prescription data into computers which could then be downloaded to the DMH. Prescriptions are hand written and are then taken to a pharmacy to be filled or called into a pharmacy by the doctor's office. For purposes of this bill it is calculated that a minimum of 1.68 million hard copies of prescriptions and medicine listings would be received by the DMH each year. This figure was calculated as follows: Census figures indicate there are 1.4 million youth under the age of 18 in Missouri. Of these 15.6% (or 218,244), are on Medicaid. From Department of Social Services data we know that 22,039 Medicaid recipients under the age of 18 (about 10%) received a psychotropic medication in FY 2000.
Using this 10% figure as a base, the DMH arrived at 140,000 youth under the age of 18 (10% of 1.4 million) receiving psychotropic medications in Missouri. Using the figure of 1 prescription per month as an average, an estimated 1.7 million prescriptions and medication listings per year will be sent to the DMH (140,000 x 12 = 1.68 million). Each of these prescriptions and medication listings would then have to be key punched into the DMH computer system.

Assuming a productivity rate of 70% of the 2,080 working hours in a year (which allows time off for annual leave, illness, and holidays), there would be 1,456 productive hours for key punching. For this note it was assumed that one prescription could be entered every 30 seconds. Each FTE could then be expected to key punch 174,720 prescriptions per year (1,456 hours x 60 minutes x 2 prescriptions per minute). Adding slightly more time for the medication listing to be entered as well, the DMH arrived at a need for 10 data entry clerks. Two registered pharmacists would be required to review and analyze prescriptions sent to the DMH, which would not be immediately ready for key punch entry. Since the

ASSUMPTION (continued)

bill requires the data kept by the DMH to be reliable data, it would be necessary to have personnel available to track the writing of psychotropic medications prescriptions and contact those doctors who do not appear to be complying with the provisions of this bill. With ten clerical staff, good management practices dictate that at least one supervisor be assigned to oversee quality and efficiency.
Doctors who continue to disregard the requirements of this bill would then have their compliance issues turned over to the Board of Healing Arts for investigation into the unlawful practice of medicine which results from non-compliance with this bill.

Additional costs arising from this bill would be the cost of on-staff pediatricians or consulting pediatricians for facilities of the Division of Comprehensive Psychiatric Services (CPS), i.e. Hawthorn Children's Hospital, NWMO, Mid-MO MHC, WMMHC and Cottonwood RTC as well as habilitation centers in the Division of Mental Retardation and Developmental Disabilities (MRDD), i.e. Bellefontaine, Higginsville, Marshall, Nevada, St. Louis Developmental Disabilities Treatment Center and Southeast Missouri Residential Services.

For the CPS facilities, currently physical examinations of minors are conducted by a staff psychiatrist or general practitioner. This bill requires such examinations to be done by a pediatrician. An increase in inpatient bed days will also result in those situations where a minor is sent to a facility for what should only be a short stay. This bill stipulates that no psychotropic medication may be given to a minor admitted to a facility unless warranted by an emergency situation or prior approval is given by the minor's guardian ad litem or a court of law.

On admission to a facility, administration of all psychotropic medication from categories listed in the bill must cease until one of the three conditions above are met. This will result in time in court, or in the case of an emergency resulting from cessation of psychotropic medication, the medical restabalization of the minor. This will result in placing the minor in an unnecessary medically harmful position and result in more inpatient bed days for the facilities. Agencies other than the state, who are currently accepting minors without guardianship, may cease to accept such clients when they see the court time, attorney fees, and medical liability issues associated with this bill's provision. Such minors would then only have the DMH for receipt of services, thereby increasing client load and associated costs to the DMH. In the future, a significant increase in facility costs may also arise from security issues not yet finalized associated with the requirements of HIPAA (the Health Insurance Portability Act).

Regarding MRDD clients residing in habilitation centers, only 2%, approximately 30, clients fall into the “minor” category (under age 18) as specified in the legislation. Some of these children may be taking some sort of psychotropic medication. Sometimes pediatric services and psychiatric services for these ASSUMPTION (continued)

children are already being utilized prior to the prescribing of psychotropic medications. For the children who aren't currently receiving a pediatric examination prior to psychotropic medications

being prescribed, some of these children are Medicaid certified. For these children, the cost of any pediatric examinations would be covered. If the child is not Medicaid eligible, the cost of the pediatric examination may have to be covered by the habilitation center. Copies of the prescriptions would have to be provided to the parent/guardian and to DMH central office.

In addition, the Marshall Habilitiation Center has a dual diagnosis program which is a joint effort with Mid Mo Mental Health Center, the MRDD Regional Center that services the geographic area in which the patient resides, and Marshall Hab Center which provides an 8-bed unit for the program. Prior to being referred through the Regional Centers to Marshall Hab Center, these individuals will have received psychiatric services from Mid-Missouri Mental Health Center and should have had the required pediatric examination for any psychotropic medications being prescribed. While at Marshall Hab Center, prescriptions provided from the Marshall Hab Center Pharmacy contract are required to be written by the Marshall Hab Center physician that is assigned to the Dual Diagnosis Program. Marshall Hab Center would be required to provide the prescription copies to the parents/guardians and to DMH Central Office. Included in the Marshall Hab Center Pharmacy contract is the provision to provide a monthly report showing the individuals receiving and the type and amount of medication issued.

Also, some MRDD dental patients are given calming-type psychotropic medications prior to dental procedures. Many dental patients are referred to Marshall Hab Center from the MRDD Regional Centers and other DMH Habilitation Centers. In most cases, the pediatric and psychiatric exams would have already been taken care of by the referring facility. Past experience shows that there would be only a slight number of individuals per fiscal year that would be referred to Marshall Hab Center that would be affected by the proposed legislation.

Further, this bill does not require any analysis of the data. Rather, it requires the receipt of the data and the tracking of the number and kind of psychotropic medications prescribed for minors to ensure that reliable figures are available on an ongoing basis for the general assembly and other state agencies. Such information would be of an aggregate nature only and would not allow, under federal and state statutes, the disclosure of identifying information on minors. If any analysis of the data were required under this bill, the costs would be increased through the need for at least one research analyst and one programmer analyst of sufficient experience. **This cost is unknown.**
Further costs are associated with this bill from the requirements for children in State custody (cared for by the DMH) who don't have guardians (currently 516). Before psychotropic medications can be ASSUMPTION (continued)

prescribed for these children (except in emergency situations), it will be necessary for the DMH to: 1) obtain a court order for each psychotropic medication prescription for a child in State custody (which would include not only the DMH but also those in custody of the Division of Family Services and the Division of Youth Services), or 2) obtain guardians for each child in State custody in order to avoid the lengthy hearings involved with medication and guardianship issues.

Additional costs would accrue from these proceedings for the time of child psychiatrists to testify on behalf of the state. It is estimated 8 such psychiatrists would be necessary for such court proceedings (516 DMH youths without guardians x 4 hearings per minor per year [psychiatric drugs are not prescribed for longer than 90 days] / 250 workdays per year = 8 child psychiatrists). Each such psychiatrist would cost the state $150,000 per year for a total cost of $1.2 million. This cost is not included in the Summary of Fiscal Impact since the need for such positions depends upon the reaction of the courts to the use of this law. However, since current child psychiatrist positions in the facilities are already fully utilized, any additional work from this bill would necessitate additional positions so such expense could be seen in the future.

It should be noted that the Divisions of Family Services and Youth Services have more minors without guardians in their custody than does the DMH. Similar costs would accrue to them as well. We do not include any expense accrued for attorneys in this fiscal note, which might have to be assigned by the Office of the Attorney General. Additional clerks and program specialist costs may also accrue for purposes of administrating this portion of the bill. However, such costs are not currently included because the need for such personnel is not immediately foreseen.

This bill would also incur computer system costs. System modifications would be needed to track psychotropic medication prescriptions for all Missouri minors (generally everyone under 18). This tracking would be implemented as an add-on to CIMOR, with the medication prescriptions associated with CIMOR "Contacts" or "Enrollees" depending on whether they are enrolled with DMH. The record would need to include all the basic information from a prescription (consumer, provider organization, doctor, date, medication, amounts,…) and some information for other medications taken by the consumer. This would require the use of supporting medications tables and identifiers for the other individuals and organizations that may not exist in CIMOR.
The development of such a system would be outsourced in the following manner. Outsourcing Costs: Project Manager 30 hours @ $110 = $3,300. Business Analyst 40 hours @ $150 = $6,000. Systems Analyst 80 hours @ $90 = $7,200. Developer 170 hours @ $80 = $13,600. Training and Support 60 @ $50 =$3,000. **Total Outsourcing Costs = $33,100.**

ASSUMPTION (continued)

Other One-Time OIS Costs: Hardware = Negligible. Communications = Negligible. Project Oversight 40 hours @ $40 = $1,600. Report Development 80 hours @ $30 = $2,400. Installation and Tech Support 80 hours @ 25 = $2,000. **Total Other One-time OIS Costs = $6,000.** On-going OIS Costs: Technical Support 100 hours/yr. @ $25 = $2,500. Reporting 50 hours/yr. @ $30 = $1,500. **Total On-going OIS Costs = $4,000 = $4,000/yr.**

Therefore, the DMH estimates costs for FY 03 to be $1,467,904 to Unknown; FY 04 costs to be $1,578,068 to Unknown; and FY 05 costs to be $1,618,427 to Unknown.

Officials from the **Department of Elementary and Secondary Education (DES)** stated the

fiscal impact of this proposal can only be estimated; however, the extent of that estimate is dependant upon interpretation of the language. Under one interpretation, it could be assumed that a student taking psychotropic medications must receive an Individual Educational Program (IEP). If so, the school district would be required to develop IEPs on a new group of students. Those students would not access other benefits of being disabled.

The cost for schools would result from section 167.195 which requires them to do IEPs. DES knows there are a lot of kids on psychotropics, such a Ritalin, who are not identified as disabled under IDEA or state law. DES estimates there may be an additional 10 or more percent of the population who may be eligible for an IEP under this proposal. Costs to develop and change IEPs is approximately $1,000 per year, per student. Ten percent times 900,000 students times $1,000 per year is about $90 million.
Under another interpretation, it could be assumed that a student taking psychotropic medications shall be identified as disabled with the IEP on the sole basis that a psychotropic drug has been prescribed. Additionally, the IEP must include behavioral interventions. Therefore, the potential cost of the proposal could far exceed $90 million. It should be noted that eligibility under IDEA must meet state eligibility criteria consistent with IDEA. Currently, the fact that a child is on pyschotropic drugs does not, in itself, equal identification under IDEA. Furthermore, even if the child is eligible and under an IEP, IDEA requires the IEP team to determine if a child needs behavior interventions or a behavior intervention plan. To require a plan outside of an IEP team decision or the IEP process is in conflict with IDEA.

In addition, the proposal contains a provision that conditions enrollment, for a student that has dangerous behaviors, upon a mental assessment and treatment plan. This provision would, therefore, violate the Individuals with Disabilities Education Act (IDEA) for both students not yet identified as disabled and for students already under an IEP. For students who are not yet identified as disabled under IDEA, refusing enrollment on this basis would be an admission that a disability is suspected, in ASSUMPTION (continued)

which case the student is protected as if he is already identified, and therefore, enrollment cannot be conditioned upon first receiving an evaluation and treatment plan. An evaluation team, including the parent, would determine what testing is needed, and if the child is found eligible as a student with a
disability, the IEP team, including the parent, would determine what services the child needs. Exclusions from school are subject to the disciplinary provisions of federal regulations implementing IDEA. Long-term exclusion could not occur unless there was a finding that the student's "conduct" was unrelated to his disability.

Officials from the **Department of Social Services (DOS) - Division of Family Services (DFS), Children's Services Unit (CSU)** stated the requirements of Section 167.031 would not have a fiscal impact on DFS since the costs associated with the mental health assessment would be the responsibility of the Division of Medical Services (DMS). If the school orders the mental health assessment, then the school would be required to bill Medicaid for reimbursement of the cost of

the assessment.

Like the DMS, with whom DFS/CSU consulted on this fiscal note, the DFS could experience a range of fiscal impact from this legislation. Because of the requirements of this proposed legislation, it is believed that a change in practice by the DFS would be needed and implemented.

Because a physical exam and the consent of the guardian ad litem or a court of law would be required prior to the prescribing of psychiatric medications (unless an emergency situation is documented in the medical record), DFS assumes that larger residential treatment facilities and psychiatric hospitals may be called upon more in the future. This is assumed because they may be the only medical/treatment facilities capable of fulfilling these requirements in the short time frames necessary for the safety and well-being of the child. The DFS would be required to work closely with the facility (psychiatric hospital or residential facility with the current ability to perform the medical exams on site) to ensure that Medicaid resources are used as the payment mechanism for these exams. This is where the additional costs to DMS are assumed.

Those staff within the DFS who are responsible for children in state custody would be required to very closely coordinate the care of the child with the residential facility or psychiatric hospital to make sure that the requirements are met and to ensure that appropriate treatment is not delayed. This would be added workload to staff; however, it would help ensure the safety and well-being of the child. It is also assumed that smaller residential facilities may incur additional costs to their business due to the requirement they be able to provide physical exams more quickly for a child who is proposed to enter that facility ( if the child is currently on psychiatric medications). Perhaps these facilities may then request a rate increase due to this possible additional cost.

ASSUMPTION (continued)

In summary, the DFS assumes that the policy and practice changes would be required to implement this legislation. Also, close coordination with residential facilities, psychiatric hospitals, guardian ad litem, courts of jurisdiction, and prescribing physicians would be necessary to a much larger degree than is required at the present time. Additional staff time may be required for each case where a child is to receive psychiatric medications. Residential facilities may request to pass along higher costs to the DFS via rate increase requests for daily residential treatment contracted rates.

At this time, under these current assumptions, the fiscal impact is estimated to be $0.

Officials from the **DOS - Division of Medical Services (DMS)** stated currently the DMS does not require a physical examination by a pediatrician before prescribing psychiatric medication. The cost of a physical exam and any test performed would cause a fiscal impact. Per the Department of Mental Health (DMH), there are currently 22, 039 children receiving psychiatric medication. The average cost of a physical exam is $31. The cost of the exams to the DMS would range from $0 to $683,209.

Per the Pharmacy Unit within the DMS, there should be closer medication monitoring with the proposed legislation, which would result in a reduction of unnecessary prescriptions being prescribed. However, it is difficult to determine an actual cost savings. This savings is unknown to the DMS. Therefore, the fiscal impact to the DMS is Unknown to ($683,209).

Officials from the **DOS - Division of Youth Services (DYS)** stated the DYS assumes the need to make revisions in practice involved in securing parent/guardian informed consent for prescribing recommended psychiatric medication may require redirection of current expenditures, but will not result in an increased fiscal responsibility.

Further, the DYS assumes the need to make revisions in procedural practices involving youth returning to public schools will not result in an increased fiscal responsibility.

| FISCAL IMPACT - State Government | FY 2003 (10 Mo.) | FY 2004 | FY 2005 |
|---|---|---|---|
| **GENERAL REVENUE FUND** | | | |
| Costs - Department of Mental Health | | | |
| Personal Service Costs (22 FTE) | ($765,426) | ($943,687) | ($967,280) |
| Fringe Benefits | ($275,630) | ($339,822) | ($348,318) |
| Equipment and Expense | ($239,994) | ($108,098) | ($111,343) |
| Outsourcing OIS Costs | ($33,100) | $0 | $0 |
| Total Costs - Department of Mental Health | ($1,314,150)* | ($1,391,607)* | ($1,426,941)* |
| Costs - Department of Social Services - Division of Medical Services | | | |
| Medical Assistance Payments | ($264,880) to $0 | ($264,880) to $0 | ($264,880) to $0 |
| Total Costs - Department of Social Services | ($264,880) to $0 | ($264,880) to $0 | ($264,880) to $0 |
| **ESTIMATED NET EFFECT ON GENERAL REVENUE FUND*** | **($1,314,150 to $1,579,030)*** | **($1,391,607 to $1,656,487)*** | **($1,426,941 to $1,691,821)*** |

| FISCAL IMPACT - State Government | FY 2003 (10 Mo.) | FY 2004 | FY 2005 |
|---|---|---|---|
| *** Does not include Unknown data analysis costs.** | | | |
| **FEDERAL FUNDS** | | | |
| Income - Department of Social Services - Division of Medical Services | | | |
| Medical Assistance Payments | $0 to $418,329 | $0 to $418,329 | $0 to $418,329 |
| Costs - Department of Social Services - Division of Medical Services | | | |
| Medical Assistance Payments | ($418,329) to $0 | ($418,329) to $0 | ($418,329) to $0 |
| **ESTIMATED NET EFFECT ON FEDERAL FUNDS**** | **$0** | **$0** | **$0** |

**** Revenues and expenditures could exceed $400,000 annually and net to $0.**

| FISCAL IMPACT - Local Government | FY 2003 (10 Mo.) | FY 2004 | FY 2005 |
|---|---|---|---|
| **LOCAL SCHOOL DISTRICTS** | | | |
| Costs - Local School Districts | | | |
| IEP Costs | ($90,000,000 to Unknown) | ($90,000,000 to Unknown) | ($90,000,000 to Unknown) |
| **ESTIMATED NET EFFECT ON LOCAL SCHOOL DISTRICTS** | **($90,000,000 to Unknown)** | **($90,000,000 to Unknown)** | **($90,000,000 to Unknown)** |

FISCAL IMPACT - Small Business

A direct fiscal impact to small businesses would be expected as a result of this proposal. Physicians and dentists will have to report individual medication prescriptions to the DMH, incurring additional clerical and mailing costs. In addition, small businesses that provide medical coverage for employees with children affected by the proposed legislation may have increased insurance premium costs.

DESCRIPTION

This bill revises provisions pertaining to compulsory school attendance and suspension or expulsion of school children in Missouri. If a school, medical staff, certified school counselor, or

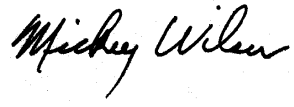
school social worker identifies a child with behaviors which could result in self-harm or harm to others or is determined to represent a clinical level of deviance, the school can refuse to admit the child until a mental health assessment has been completed by a licensed mental health care professional and a treatment plan is established. School boards are prohibited from requiring a parent or guardian to administer psychotropic medications to a child as a condition of admittance or re-admittance to a school after being suspended. School boards are required to adopt and implement policies prohibiting school personnel from recommending the use of psychotropic medications for any child. Recommendations for mental health evaluations of a child or consultations with mental health care professionals by authorized school personnel with the consent of a parent or guardian are not prohibited. The bill requires licensed physicians with prescriptive authority to follow specified procedures before prescribing psychotropic medications to a child. Refusal of a parent to such treatment will not result in the commencement of protective custody proceedings unless the refusal results in child abuse or neglect. Licensed mental health care professionals who prescribe psychotrophic medications for minors are required to provide a list of all medications taken by the child to the parent or guardian of the child and to the Department of Mental Health. The department is required to track the number of medications and the types of medications prescribed to minors in Missouri. A licensed health care professional who violates the provisions of the bill is guilty of the unlawful practice of medicine.

DESCRIPTION (continued)

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of Secretary of State
Department of Health and Senior Services
Department of Mental Health
Department of Social Services
Department of Elementary and Secondary Education



Mickey Wilson, CPA

HW-C:LR:OD (12/01)

Acting Director
March 4, 2002